

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Monique West	Team: APU	CCRB Case #: 201608744	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input checked="" type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Wednesday, 10/12/2016 2:25 PM	Location of Incident: College Point Park (14th Avenue and 121st Street)	Precinct: 109	18 Mo. SOL 4/12/2018	EO SOL 4/12/2018	
Date/Time CV Reported Tue, 10/18/2016 9:17 AM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Tue, 10/18/2016 9:51 AM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. SGT Tyler Ehrlein	03699	926798	NARCBQN
2. POM Andrew Burgos	25141	948185	NARCBQN

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Brett Schantz	12909	947471	NARCBQN
2. POM § 87(2)(b) Cooley	13166	946875	NARCBQN
3. DT3 § 87(2)(b) Reilly	6244	947387	NARCBQN

Officer(s)	Allegation	Investigator Recommendation
A.SGT Tyler Ehrlein	Abuse: Sergeant Tyler Ehrlein stopped § 87(2)(b)	
B.SGT Tyler Ehrlein	Abuse: Sergeant Tyler Ehrlein stopped § 87(2)(b) Unknown.	
C.SGT Tyler Ehrlein	Abuse: Sergeant Tyler Ehrlein stopped § 87(2)(b) Unknown.	
D.SGT Tyler Ehrlein	Force: Sergeant Tyler Ehrlein used physical force against § 87(2)(b)	
E.SGT Tyler Ehrlein	Force: Sergeant Tyler Ehrlein used a taser against § 87(2)(b)	
F.SGT Tyler Ehrlein	Force: Sergeant Tyler Ehrlein used physical force against § 87(2)(b)	
G.SGT Tyler Ehrlein	Force: Sergeant Tyler Ehrlein used a taser against § 87(2)(b)	
H.SGT Tyler Ehrlein	Abuse: Sergeant Tyler Ehrlein damaged § 87(2)(b)'s property.	
I.POM Andrew Burgos	Abuse: Police Officer Andrew Burgos frisked § 87(2)(b) Unknown.	
J.SGT Tyler Ehrlein	Abuse: Sergeant Tyler Ehrlein threatened § 87(2)(b) Unknown with the use of force.	
K.SGT Tyler Ehrlein	Discourtesy: Sergeant Tyler Ehrlein spoke discourteously to § 87(2)(b)	

Officer(s)	Allegation	Investigator Recommendation
L.SGT Tyler Ehrlein	Force: Sergeant Tyler Ehrlein used physical force against § 87(2)(b)	
M.SGT Tyler Ehrlein	Force: Sergeant Tyler Ehrlein used physical force against § 87(2)(b)	
N.SGT Tyler Ehrlein	Off. Language: Sergeant Tyler Ehrlein made remarks to § 87(2)(b) based upon the perceived sexual orientation of § 87(2)(b)	
§ 87(2)(g), § 87(4-b)		

Case Summary

On October 18, 2016, § 87(2)(b) filed the following complaint with the Civilian Complaint Review Board (CCRB) and with the Internal Affairs Bureau (IAB), under IAB log #16-36909.

On October 12, 2016, at approximately 2:25 p.m., at College Point Park, located at 14th Avenue and 121st Street in Queens, Sergeant Tyler Ehrlein, Police Officer Brett Schantz, and Police Officer Andrew Burgos of Narcotics Borough Queens North stopped § 87(2)(b) and two unidentified individuals known only as § 87(2)(b) and § 87(2)(b) (**allegations A, B, and C**). While attempting to place § 87(2)(b) under arrest, Sergeant Ehrlein allegedly directed a punch towards § 87(2)(b)'s face (**allegation D**) and then used a taser against him (**allegation E**). Sergeant Ehrlein then allegedly used additional physical force against § 87(2)(b) (**allegation F**).

After § 87(2)(b) was in handcuffs, Sergeant Ehrlein allegedly used a taser against him (**allegation G**). While Sergeant Ehrlein was searching § 87(2)(b) he allegedly ripped his pocket (**allegation H**). Police Officer Burgos frisked § 87(2)(b) (**allegation I**). Sergeant Ehrlein allegedly threatened to use a taser against § 87(2)(b) (**allegation J**). When § 87(2)(b) told Sergeant Ehrlein that § 87(2)(b) was blind, Sergeant Ehrlein allegedly stated, "I don't give a fuck if he's blind" (**allegation K**). Sergeant Ehrlein allegedly grabbed § 87(2)(b) by his neck and threw him down on the ground from the bench (**allegation L**). Sergeant Ehrlein used his taser again against § 87(2)(b) (**within allegation G**). While escorting him to the prisoner van, Sergeant Ehrlein allegedly pushed § 87(2)(b) into the van (**allegation M**). When an officer said, "Watch his head," Sergeant Ehrlein allegedly replied, "Fuck this faggot" (**allegation N**).

§ 87(2)(g), § 87(4-b)

§ 87(2)(b)

§ 87(2)(b)

Video footage, of the latter portion of this incident, embedded below, was obtained from § 87(2)(b) (Board Reviews 03 and 04). He was unable to provide the name or any contact information for the individual who provided this video footage to him, as the person did not want to be identified. The original footage is attached to IA #62 and #63.



201608744_20161212_1651_DM.mov



201608744_20161212_1651A_DM.mov

This case was originally truncated as complainant uncooperative one month after it was received by the CCRB when § 87(2)(b) failed to appear for an interview appointment and did not respond to subsequent contact attempts. § 87(2)(b) eventually appeared for an in-person interview more than a month after this case was received by the CCRB. Multiple attempts were then made to identify and contact the additional victims prior to interviewing subject and witness officers. Sergeant Ehrlein was interviewed more than a month after his partners due to conflicts in his schedule. Further delays were caused by the undersigned being out on FLMA leave. Therefore, this case is being closed more than 90 days after it was filed.

§ 87(2)(g)

§ 87(2)(b)

Mediation, Civil and Criminal Histories

- § 87(2)(g) [REDACTED]
[REDACTED]
- As of April 28, 2017, over three months after the 90-day filing deadline, § 87(2)(b) [REDACTED] has not filed a Notice of Claim with the NYC Comptroller's Office (Board Review 05).
- § 87(2) § 87(2)(b) [REDACTED]
[REDACTED]
- § 87(2)(c) [REDACTED]
[REDACTED]

Civilian and Officer CCRB Histories

- This is the first CCRB complaint filed by or involving § 87(2)(b) [REDACTED] (Board Review 07).
- Sergeant Ehrlein has been a member of the NYPD for 16 years and has had 12 prior CCRB allegations against him involving six cases with five substantiated allegations in two cases § 87(2)(g) [REDACTED] (see officer history).
 - In CCRB case #201116081, allegations that Sergeant Ehrlein stopped, frisked and searched an individual without justification were substantiated and charges were recommended. Sergeant Ehrlein received a command discipline B from the NYPD. Charges were recommended for a substantiated allegation, in the same case, that his arrest of an individual was retaliatory; however, the NYPD took no disciplinary action against him.
 - In CCRB case #201310229, an allegation that Sergeant Ehrlein searched a vehicle without justification was substantiated and instructions were recommended. Sergeant Ehrlein received formalized training from the NYPD.
- Police Officer Burgos has been a member of the NYPD for seven years and has had four prior CCRB allegations against him involving three cases with no substantiated allegations or § 87(2)(g) [REDACTED]
[REDACTED]

Potential Issues

- § 87(2)(b) [REDACTED] was unable to identify the two individuals who were stopped with him, § 87(2)(b) [REDACTED] and § 87(2)(b) [REDACTED] by their full names and he did not have any contact information for any of them. Field work on December 21, 2016, at the incident location where the individuals are known to congregate, yielded negative results (Board Review 09). The investigation was therefore unable to identify and interview the other victims in this case.
- Five calls and two letters were sent to § 87(2)(b) [REDACTED] Caceida, a possible witness in this case. Voicemail messages were left during each call. As of the date of this report, § 87(2)(b) [REDACTED] has not responded to the undersigned's attempts to contact him.
- § 87(2)(b) [REDACTED] another witness in this case, provided a phone statement but stated that upon the officers' approach, he walked away. He stated that from a distance he saw § 87(2)(b) [REDACTED] fall but did not see what led to his fall. He stated that § 87(2)(b) [REDACTED] was

assaulted but could not describe how. He was unable to provide any additional information.

Findings and Recommendations

Explanation of Subject Officer Identification

- Sergeant Ehrlein was the supervisor on scene and was the only officer to witness the alleged hand-to-hand drug transaction that led to the stop of § 87(2)(b) and § 87(2)(b). Therefore, allegations A, B, and C are pleaded against him.

Allegations not pleaded

- **Abuse of Authority-Search:** The search of § 87(2)(b) occurred incident to arrest and is therefore not pleaded.

Allegation A- Abuse of Authority: Sergeant Tyler Ehrlein stopped § 87(2)(b)

Allegation B- Abuse of Authority: Sergeant Tyler Ehrlein stopped § 87(2)(b) Unknown.

Allegation C- Abuse of Authority: Sergeant Tyler Ehrlein stopped § 87(2)(b) Unknown.

On October 18, 2016, § 87(2)(b) provided a telephone statement to IAB (Board Review 10). On November 21, 2016, § 87(2)(b) was interviewed at the CCRB. On January 5, 2017, Police Officer Schantz and Police Officer Burgos were interviewed at the CCRB. On January 18, 2017, Police Officer Cooley and Police Officer Reilly were interviewed at the CCRB. On February 7, 2017, Sergeant Ehrlein was interviewed at the CCRB.

§ 87(2)(b) stated that he was sitting on a bench inside of a park when two of his friends, who he knows only as § 87(2)(b) and § 87(2)(b) walked up to him. § 87(2)(b) said “hi” and then went to play handball in another section of the park. Another friend, who he knows only as § 87(2)(b) approached him. § 87(2)(b) who is homeless and blind, had four quarters and asked § 87(2)(b) to find him a cigarette. § 87(2)(b) handed § 87(2)(b) the quarters. § 87(2)(b) did not give § 87(2)(b) anything in return. § 87(2)(b) had not exchanged anything with anyone else while he was in the park. § 87(2)(b) was bouncing the four quarters in his hand when he noticed Sergeant Ehrlein, Police Officer Schantz and Police Officer Burgos enter the park. Sergeant Ehrlein approached § 87(2)(b) placed his hand on his shoulder and said, “Come with me.”

Sergeant Ehrlein stated that he was in the front passenger’s seat of his car, looking into the park with binoculars, from approximately 40 feet away, when he saw § 87(2)(b) give § 87(2)(b) cash and § 87(2)(b) give him two small white objects in return. Sergeant Ehrlein did not know how the objects were packaged and did not recall the shape of the objects. Sergeant Ehrlein believed the objects to be narcotics but he did not suspect any particular drug. He stated that the park is a drug prone location known for marijuana, ketamine, and cocaine. He and his team have made multiple undercover buys and drug arrests in that park within the month prior to the incident.

Sergeant Ehrlein stated that upon observing the hand-to-hand transaction between § 87(2)(b) and § 87(2)(b) he observed § 87(2)(b) standing nearby. He stated that § 87(2)(b) “appeared” to be involved in the transaction because he was “hovering” over the other two individuals. All three men were standing so close to each other that they were touching each other. He saw § 87(2)(b)s hands touch § 87(2)(b)s but he did not see § 87(2)(b) exchange anything with anyone. He believed that § 87(2)(b) could have been acting as a lookout.

Sergeant Ehrlein informed his partners of what he observed and said, "Let's go," instructing them to stop all three individuals. Upon approaching them, all three individuals walked away in separate directions.

Police Officer Burgos and Police Officer Schantz did not observe the hand-to-hand transaction. They confirmed that Sergeant Ehrlein informed them of his observations and that he ordered them to stop § 87(2)(b) and § 87(2)(b).

All of the officers confirmed that no drugs were found on § 87(2)(b) or § 87(2)(b).

An officer must have reasonable suspicion that a person has committed, is committing, or is about to commit a felony or misdemeanor in order to stop that person. People v. Debour, 40 N.Y.2d 210 (1976). In a drug-prone location, "tell-tale signs of drug activity," such as hand-to-hand transfers of money and the delivery of unidentified objects, heightened by the flight of the individuals involved in the transaction upon approach by officers, can generate reasonable suspicion. People v. King, 200 A.D.2d 487 (1994). An experienced narcotics officer has no reasonable suspicion for his investigative stop when he did not see what was exchanged between two men in an alleged hand-to-hand transaction and did not see money pass between the two. People v. Loper, 115 A.D.3d 875 (2014) (Board Review 08).

§ 87(2)(g)
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Allegation D- Force: Sergeant Tyler Ehrlein used physical force against § 87(2)(b)

§ 87(2)(b) alleged that when Sergeant Ehrlein approached him, he placed his hand on his shoulder and said, "Come with me." Not knowing who Sergeant Ehrlein was, § 87(2)(b) jerked his shoulder away from Sergeant Ehrlein's hand. Sergeant Ehrlein then revealed his shield, which had been on a chain around his neck but under his shirt, and in the same action, he grabbed § 87(2)(b)'s right wrist and tried to twist it. § 87(2)(b) pulled his hand away due to the pain. Sergeant Ehrlein did not issue him any commands and directed a punch towards § 87(2)(b)'s face, at which point Sergeant Ehrlein's hand got caught in the chain holding his shield, causing the chain to break and the shield to fall on the ground.

Sergeant Ehrlein stated that upon approaching § 87(2)(b) he asked him if he could talk to him. When § 87(2)(b) continued to walk away, Sergeant Ehrlein grabbed him by the arm at which point, § 87(2)(b) pushed him in his chest with an open hand. Sergeant Ehrlein grabbed him by his arm with both hands. § 87(2)(b) pushed him again with an open hand, and in that motion, he grabbed Sergeant Ehrlein's shield, causing the chain to break and the shield to fall. Sergeant Ehrlein denied punching or attempting to punch § 87(2)(b).

Police Officer Burgos and Police Officer Schantz stated that at this time during the incident, they were dealing with separate individuals and did not see what happened between Sergeant Ehrlein and § 87(2)(b).

Sergeant Ehrlein and § 87(2)(b) provide different accounts of what happened between them as when Sergeant Ehrlein attempted to speak to and arrest § 87(2)(b). Sergeant Ehrlein denies attempting to punch § 87(2)(b).

§ 87(2)(g)

Allegation E- Force: Sergeant Tyler Ehrlein used a taser against § 87(2)(b)

§ 87(2)(b) alleged that when Sergeant Ehrlein attempted to punch him, he stepped away from Sergeant Ehrlein and put his left hand up to block his face. He later demonstrated that his left arm was up over his left shoulder so that his left hand was behind his head and his left elbow was pointing in the direction of Sergeant Ehrlein, who was in front of him. § 87(2)(b) stated that his hand was not closed in a fist and he never stepped towards Sergeant Ehrlein, nor did he make physical contact with him. Sergeant Ehrlein accused him of “squaring off” with him and ordered him to put his hands down. At that time, § 87(2)(b) had his hands open and leveled with his chest, ready to protect himself in case Sergeant Ehrlein attempted to strike him again. § 87(2)(b) began to drop his hands until they were at waist level. He did not fully drop his hands so that he could continue protecting himself. Sergeant Ehrlein said, “That’s it” and reached for his waist. Thinking that Sergeant Ehrlein was going to shoot him, § 87(2)(b) dropped his hands until they were completely at his sides and said, “You got it” as he began to step away. As soon as his hands were down, Sergeant Ehrlein deployed his taser at him from approximately eight to 12 feet away. § 87(2)(b) felt a charge go through his body and pain in his chest. The prongs hit him on the right side of his body—one was lodged below his collar bone and the other above his nipple. He heard a clicking sound and his body “froze.” The electric charge forced his arms to cross in front of his body. § 87(2)(b) fell onto his knees slowly, then onto his left side and eventually faced down on the ground with his arms beneath him.

Sergeant Ehrlein stated that after § 87(2)(b) pushed him the second time, breaking his shield, § 87(2)(b) backed into a “fighting stance” with his arms raised and his fists clenched. § 87(2)(b) was approximately three feet away from him. Sergeant Ehrlein took out his taser but gave § 87(2)(b) a second to comply. He did not recall if he said anything to § 87(2)(b) at that time. § 87(2)(b) stood where he was and remained in the same “fighting stance.” Sergeant Ehrlein deployed the taser from approximately three feet away, with one five-second burst. He did not recall if he issued any commands prior to this. Sergeant Ehrlein stated that he tased § 87(2)(b) a second time, due to his resistance, before he was able to place him in handcuffs.

Police Officer Schantz stated that he was speaking to § 87(2)(b) approximately 15 feet diagonally to the left of Sergeant Ehrlein and § 87(2)(b) when he heard § 87(2)(b) screaming at Sergeant Ehrlein. Police Officer Schantz did not hear what § 87(2)(b) was saying and did not see what led to this. Police Officer Schantz went to approach them and saw § 87(2)(b) standing in front of Sergeant Ehrlein screaming. Sergeant Ehrlein told § 87(2)(b) to stop resisting. Other than screaming in Sergeant Ehrlein’s face, § 87(2)(b) was not doing anything else. Sergeant Ehrlein walked backwards and pulled out his taser. § 87(2)(b)’s hands were in front of his mid-body. Police Officer Schantz did not recall whether his hands were opened or closed and he did not recall seeing § 87(2)(b) move his hands.

When Sergeant Ehrlein was approximately five to seven feet away from § 87(2)(b) he deployed his taser against him.

Police Officer Burgos stated that while he was interacting with another individual who was stopped, he heard Sergeant Ehrlein's badge "rip" off his neck and fall to the ground. When he looked up, it appeared that § 87(2)(b) had pushed Sergeant Ehrlein. Later in his interview, however, he stated that he actually saw § 87(2)(b) push Sergeant Ehrlein, with his mid-section making contact with Sergeant Ehrlein and putting some space between them. When asked whether § 87(2)(b) "bumped" Sergeant Ehrlein with his chest or pushed him with his arms, Police Officer Burgos stated that he did not know. He assumed that his hands had to be up in order to rip Sergeant Ehrlein's chain off. When told that he needed to tell us only what he saw, he stated that he saw a contact between the two. He was not watching the entire time so he did not know what led to that contact and as the result of that contact, Sergeant Ehrlein and § 87(2)(b) were a couple of feet apart. He did not recall whether Sergeant Ehrlein had his taser in his hand at that time or whether he removed his taser following the push. He did not recall whether Sergeant Ehrlein said anything before deploying the taser. He was unable to estimate the amount of time between the push and the taser being deployed. It appeared to Police Officer Burgos that § 87(2)(b) "squared off," which he described as standing his ground after pushing Sergeant Ehrlein, at which point Sergeant Ehrlein deployed the taser. He did not know where § 87(2)(b) hands were before he was tased.

Conductive Electronic Weapons, commonly known as tasers, should only be used against persons who are actively resisting, exhibiting active aggression or to prevent individuals from physically injuring themselves or other person(s) actually present. Physical resistance includes physically evasive movements to defeat a member of the service's attempt at control, including bracing, tensing, pushing, or verbally signaling an intention to avoid or prevent being taken into or retained in custody. Active aggression is defined as a threat or overt act of an assault (through physical or verbal means), coupled with the present ability to carry out the threat or assault, which reasonably indicates that an assault or injury to any person is imminent. It is strictly prohibited to use the CEW on persons as a form of coercion or punishment and on persons who passively resist (e.g., going limp, offering no active physical resistance). Patrol Guide Procedure 221-08. (Board Review 08)

It is undisputed that § 87(2)(b) had his hands up at the time Sergeant Ehrlein decided to tase him and removed his taser. § 87(2)(b) describes having his elbow facing Sergeant Ehrlein after Sergeant Ehrlein attempted to punch him. He then describes changing position and holding his hands out and opened in front of him in case Sergeant Ehrlein tried to strike him again. § 87(2)(b) describes that he was only tased once prior to being placed in handcuffs. Sergeant Ehrlein similarly describes § 87(2)(b) having his hands out in front of him, but with his fists clenched. Sergeant Ehrlein stated that § 87(2)(b) continued to resist after being tased, leading him to tase him a second time. Police Officer Schantz confirmed that § 87(2)(b)'s hands were out in front of him but did not recall whether they were opened or closed. He stated that § 87(2)(b) did not move his hands nor was he doing anything else with his body at the time he was tased. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation F- Force: Sergeant Tyler Ehrlein used physical force against § 87(2)(b)

§ 87(2)(b) stated that after he fell to the ground after being tased, Sergeant Ehrlein told him to put his hands behind his back and to stop resisting. § 87(2)(b) explained that he was not resisting but he could not put his hands behind his back because he was still feeling the effects of the taser. Sergeant Ehrlein then allegedly stepped on his left elbow and then put his boot onto the left side of § 87(2)(b)'s face and began to "grind" his face into the concrete. He also alleged that Sergeant Ehrlein tried to kick him in his groin and tried to stomp on his foot.

Sergeant Ehrlein did not recall whether he stepped on § 87(2)(b)'s elbows while attempting to place him in handcuffs. He denied stepping on § 87(2)(b)'s face or grinding his face into the ground with his shoe. He did not recall whether he placed his foot on any part of § 87(2)(b)'s body. He never kicked or attempted to kick § 87(2)(b) in his groin or elsewhere. He did not recall attempting to step on his foot. In his memo book and in the Threat Resistance Incident Report (TRI) he prepared, Sergeant Ehrlein stated that he used his hand to put pressure on § 87(2)(b)'s head to prevent him from spitting.

Neither Police Officer Burgos nor Police Officer Schantz saw Sergeant Ehrlein step on § 87(2)(b)'s left elbow or put his boot on his face, grinding his face into the ground. Neither one of them saw Sergeant Ehrlein attempt to kick § 87(2)(b) or attempt to step on his foot.

§ 87(2)(g)

Allegation G- Force: Sergeant Tyler Ehrlein used a taser against § 87(2)(b)

§ 87(2)(b) alleged that after he was placed in handcuffs, Sergeant Ehrlein attempted to tase him again but one of the prongs had fallen out. Sergeant Ehrlein then used the taser unit to drive stun him in his arm and his upper back. § 87(2)(b) stated that after he was picked up off of the ground, after being put back on the ground by Sergeant Ehrlein, Sergeant Ehrlein tried to tase him again.

In his memo book, Sergeant Ehrlein wrote that he tased § 87(2)(b) three times prior to handcuffing him. During his interview, he initially stated that he tased § 87(2)(b) twice prior to handcuffing him. When asked about the third tasing that he mentioned in his memo book, he stated that he did not know if there was a third tasing. He stated that he may have tased him a third time but he did not remember. When asked whether he deployed his taser after § 87(2)(b) was in handcuffs, Sergeant Ehrlein stated that there was an incident where he had the taser in his hand and hit the trigger by accident. He stated that the prongs were not in § 87(2)(b) at this time, and that he had removed the cartridge from the taser and the wires were ripped. Sergeant Ehrlein stated that the third tasing in his memo book could have referred to this. Sergeant Ehrlein did not recall at what point he removed the cartridge or at what point he accidentally deployed the taser. He believed it was when he was handcuffing § 87(2)(b) but he did not recall. He stated that from his recollection, the accidental trigger pull was the third time he deployed the taser. He never deployed his taser after the third accidental cycle and he never drive stunned § 87(2)(b).

After watching video footage of the incident, Sergeant Ehrlein denied hearing the sound of a taser in the video and stated that he did not know if he activated the taser at that point in the incident. Upon hearing the clicking of the taser later in the video, Sergeant Ehrlein stated that that must have been the time he activated the taser by accident but he did not recall this for sure. Upon hearing the clicking of the taser for a third time in the video, he stated that this was likely accidental as well.

Police Officer Schantz initially stated that he observed Sergeant Ehrlein tase § 87(2)(b) once, in order to place him in handcuffs. Police Officer Schantz denied knowing whether § 87(2)(b) was tased again after this. He stated that he never heard the sound of the taser being activated after the taser was activated the first time. He stated that he was standing right next to § 87(2)(b) after he was placed in handcuffs. He never saw Sergeant Ehrlein drive stun § 87(2)(b) and never heard § 87(2)(b) complain that he was actively being tased after the first time he was tased.

After watching video footage of the incident, Police Officer Schantz acknowledged hearing the sound of the taser in the video; however, he stated that he did not recall hearing the taser during the incident. The video also did not bring back his recollection of seeing Sergeant Ehrlein drive stun § 87(2)(b) with the taser.

Police Officer Burgos also described Sergeant Ehrlein tasing § 87(2)(b) one time, prior to him being placed in handcuffs. He did not think that § 87(2)(b) was tased again after this. He denied hearing the sound of the taser being deployed after this. He did not recall whether Sergeant Ehrlein drive stunned § 87(2)(b).

After watching video footage of the incident, Police Officer Burgos acknowledged that the clicking sound in the video was the sound of the taser; however, he denied hearing this at the time of the incident.

Video footage (embedded below, Board Review 11) shows § 87(2)(b) being lifted off of the ground in handcuffs by Sergeant Ehrlein. Sergeant Ehrlein states, "If you do one more thing, I'll do it again. I'll do it again." § 87(2)(b) yelled, "Stop this shit. Please. I'll sue you. Videotape it. Videotape the shit out of this nigga. I'm suing you." Aside from yelling, § 87(2)(b) is not doing anything else. The sound of the taser being activated is heard. § 87(2)(b) does not appear to react to the taser being activated and continues to yell.



201608744_20170503_0912_DM.mp4

As the video continues (embedded below, Board Review 12), Sergeant Ehrlein places § 87(2)(b) on a bench and then brings him back to the ground after § 87(2)(b) continues to yell. The taser is seen still in Sergeant Ehrlein's hand. Once on the ground, Sergeant Ehrlein screams at § 87(2)(b) to stop kicking him. § 87(2)(b) does not appear to be kicking Sergeant Ehrlein. § 87(2)(b) responds, "You hear this nigga, I'm kicking him." He asks the spectators if he is kicking Sergeant Ehrlein and someone behind the camera states, "No you not." Again, the sound of the taser being activated is heard. At that time, the camera is not directed at § 87(2)(b) and Sergeant Ehrlein. When the camera is focused on them again, § 87(2)(b) is lying down on the ground, still. He is quiet for a few seconds and then says, "I ain't got shit on me." The taser is still seen in Sergeant Ehrlein's hand.



201608744_20170503_0925_DM.mp4

As the video continues (embedded below, Board Review 13), § 87(2)(b) is still lying on the ground, yelling at Sergeant Ehrlein to get his “fucking hand” off his face. Sergeant Ehrlein says, “You want to get (inaudible) again.” He makes this statement three times. § 87(2)(b) replies, “If you shock me again (inaudible).” Parts of their statements are inaudible due to the spectators behind the camera talking. § 87(2)(b) yells that he is going to get a lawyer and Sergeant Ehrlein’s badge number. He states, “I want your badge number because I am suing the shit out of you.” § 87(2)(b) then screams, “Stop tasing me. He’s tasing me.” The sound of the taser can be heard being activated. While the taser is being activated, Sergeant Ehrlein is heard saying, “Stop.” As the taser is being activated, the camera becomes unsteady. Prior to the taser being activated, § 87(2)(b) was lying still on his side. While the camera is moving around, after the sound of the taser ceases, Sergeant Ehrlein can briefly be seen leaning over § 87(2)(b) with the taser in his hand.



201608744_20170503_0940_DM.mp4

§ 87(2)(g)
§ 87(2)(b). During his interview, Sergeant Ehrlein initially only described himself activating the taser twice, both times prior to § 87(2)(b) being in handcuffs. When asked whether he ever used the taser after § 87(2)(b) was in handcuffs, he stated that may have accidentally pulled the trigger once. He stated that he never activated the taser after the one accidental pull of the trigger and he never drive stunned § 87(2)(b). After watching the video footage, Sergeant Ehrlein stated that the multiple sounds of the taser being activated must have been accidental as well. Sergeant Ehrlein did not document any accidental § 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g).

The timing of the tasing in the video footage also suggests that the activation of the taser was not random and were in reaction to § 87(2)(b)’s statements. This is supported by the fact that, in the second clip, Sergeant Ehrlein says, “You want to get (inaudible) again” three times. § 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)

CEWs should only be used against persons who are actively resisting, exhibiting active aggression or to prevent individuals from physically injuring themselves or other person(s) actually present. It is strictly prohibited to use the CEW on persons as a form of coercion or punishment and on persons who passively resist (e.g., going limp, offering no active physical resistance). A CEW should never be used in cartridge or drive stun mode on a rear-cuffed prisoner. Patrol Guide Procedure 221-08. (Board Review 08)

§ 87(2)(g)

Allegation H- Abuse of Authority: Sergeant Tyler Ehrlein damaged § 87(2)(b)'s property.

§ 87(2)(b) alleged that while Sergeant Ehrlein was searching him, he grabbed his pocket and ripped his pocket out of his pants.

Sergeant Ehrlein stated that he observed that § 87(2)(b)'s clothing was already damaged from the moment Sergeant Ehrlein began interacting with him. Both his shirt and his pants were tattered and torn and “ripped to shreds.” He did not recall whether he felt any rips inside of § 87(2)(b)'s pants pockets and did not recall ripping his pants when searching his pockets.

Police Officer Schantz stated that he observed Sergeant Ehrlein search § 87(2)(b) but did not see Sergeant Ehrlein damage § 87(2)(b)'s pants during this search. Police Officer Burgos did not see any damage to § 87(2)(b)'s clothing as a result of this incident.

§ 87(2)(g)

Allegation I – Abuse of Authority: Police Officer Andrew Burgos frisked § 87(2)(b). Unknown.

§ 87(2)(b) stated that he believed that either § 87(2)(b) or § 87(2)(b) were searched but he was not sure which one of them were searched or who conducted the search, although he initially stated that it was Sergeant Ehrlein.

Sergeant Ehrlein stated that he believed that § 87(2)(b) and § 87(2)(b) were frisked and searched but he did not recall by who. He did not recall whether he frisked or searched either one of them.

Police Officer Schantz stated that he did not know if § 87(2)(b) and § 87(2)(b) were searched and did not recall searching anyone. He did not see Police Officer Burgos search anyone and did not see Sergeant Ehrlein interact physically or verbally with § 87(2)(b) or § 87(2)(b).

Police Officer Burgos stated that he frisked § 87(2)(b) because of the drug transaction that Sergeant Ehrlein observed and because he wanted to make sure that he did not have any weapons on him. He stated that he did not know what the situation was with him. The sergeant informed him of the drug transaction and told him to stop § 87(2)(b) but did not give him any additional information. § 87(2)(b) was not searched. He had no recollection of § 87(2)(b) being frisked or searched.

§ 87(2)(g)

Allegation J- Abuse of Authority: Sergeant Tyler Ehrlein threatened § 87(2)(b) Unknown with the use of force.

Allegation K- Abuse of Authority: Sergeant Tyler Ehrlein spoke discourteously to § 87(2)(b)

§ 87(2)(b) alleged that after § 87(2)(b) was removed from handcuffs, he approached Sergeant Ehrlein and told him that § 87(2)(b) did not have anything on him except for the four quarters that he gave him. Sergeant Ehrlein allegedly screamed, “Yo,” and turned around with the taser in his hand, directing it towards § 87(2)(b). § 87(2)(b) said, “Yo, what the fuck is your problem. He’s blind.” Sergeant Ehrlein allegedly stated, “I don’t give a fuck if he’s blind.”

Sergeant Ehrlein did not recall whether he directed his taser towards § 87(2)(b) and did not think that he said, “I don’t give a fuck if he’s blind.” He did not recall if he ever used profanity towards § 87(2)(b).

Police Officer Schantz did not see Sergeant Ehrlein point his taser at § 87(2)(b) and did not hear him say, “I don’t give a fuck if he’s blind.”

Police Officer Burgos did not see Sergeant Ehrlein point his taser at § 87(2)(b) and did not recall whether he heard him say, “I don’t give a fuck if he’s blind.” He stated that he could not recall what was said during the incident due to amount of time that has passed since then.

§ 87(2)(g)

Allegation L- Force: Sergeant Tyler Ehrlein used physical force against § 87(2)(b)

§ 87(2)(b) stated that while he was sitting on the bench, he said something “negative” to Sergeant Ehrlein regarding Sergeant Ehrlein’s actions. He did not recall exactly what he said. Sergeant Ehrlein then allegedly grabbed him by the front of his neck, and threw him face down on the ground.

Sergeant Ehrlein initially stated that he did not recall how he brought § 87(2)(b) back down to the ground from the bench but that he did so for safety reasons. He explained that there were a lot of people gathering around and watching and that they were starting to make him “a little nervous.” There were no more than 20 people in the park and they were only watching and not interfering. He did not recall their distance from him. He also explained that at that time, § 87(2)(b) was yelling and cursing. Sergeant Ehrlein believed that his demeanor was suggestive that he wanted to fight again because he looked “angry.” For these reasons, Sergeant Ehrlein felt that it was best for him to be on the ground. He explained that when a person is on the ground, it is a lot harder for them to jump up, run, or kick and that it allowed him to control the situation better. Sergeant Ehrlein expressed that he believed § 87(2)(b) to be a flight risk because “anyone can be a flight risk.” When asked whether there was anything specific about § 87(2)(b) that led him to believe that he was a flight risk, he stated again that “anyone can be a flight risk.”

After watching video footage of the incident, Sergeant Ehrlein recalled that he brought § 87(2)(b) down to the ground by his shoulders.

Police Officer Schantz stated that he did not see § 87(2)(b) back on the ground after he was lifted off of the ground. He did not see Sergeant Ehrlein grab § 87(2)(b) by his neck and throw him down to the ground. Police Officer Burgos stated that he did not remember whether § 87(2)(b) ever ended up back on the ground.

Video footage of the incident (embedded below, Board Review 14) shows § 87(2)(b) sitting on a bench rear-cuffed. He yells, “I have nothing on me.” To which Sergeant Ehrlein replies, “Yes you do.” § 87(2)(b) says, “No, I don’t.” Sergeant Ehrlein responds, “Then knock it off.” § 87(2)(b) says, “I’m telling you. Video tape this. I’m suing the fuck

out of you nigga.” At that point, Sergeant Ehrlein reaches over and pushes § 87(2)(b) off of the bench from what appears to be the side of his neck. Other than screaming, § 87(2)(b) had not been making any movements with his body. After Sergeant Ehrlein pushes him he states, “Get back down on the ground.” The video shows no civilians aside from § 87(2)(b) and § 87(2)(b) in the immediate vicinity of Sergeant Ehrlein, § 87(2)(b) Police Officer Burgos and Police Officer Schantz.



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Force may be used when it is reasonable to ensure the safety of a member of the service or a third person, or otherwise protect life, or when it is reasonable to place a person in custody or to prevent escape from custody. Any application or use of force must be reasonable under the circumstances. If the force used is unreasonable under the circumstances, it will be deemed excessive and in violation of Department policy. Patrol Guide Procedure 221-01. (Board Review 08)

§ 87(2)(g)
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Allegation M- Force: Sergeant Tyler Ehrlein used physical force to § 87(2)(b)

Allegation N- Offensive Language: Sergeant Tyler Ehrlein made remarks to § 87(2)(b) based upon the perceived sexual orientation of § 87(2)(b)

§ 87(2)(b) alleged that while he was being escorted into the prisoner van, Sergeant Ehrlein pushed him into the van, almost striking his head on the van. When an officer said, “Watch his head,” Sergeant Ehrlein allegedly replied, “Fuck this faggot.”

Sergeant Ehrlein acknowledged pushing § 87(2)(b) into the van, after § 87(2)(b) raised his legs to prevent them from placing him in the van. Sergeant Ehrlein denied saying, “Fuck this faggot” or referring to § 87(2)(b) as a “faggot.”

Police Officer Schantz did not see Sergeant Ehrlein push § 87(2)(b) into the van and stated that he was too far away to hear away to hear anything that was said while § 87(2)(b) was being placed into the prisoner van.

Police Officer Burgos stated that § 87(2)(b) went into the van on his own. He did not see Sergeant Ehrlein push him into the van and he did not hear Sergeant Ehrlein say, “Fuck this faggot” or use the word “faggot” at any time.

Police Officer Cooley stated that § 87(2)(b) was kicking as they placed him in the van. Aside from placing him in the van, no officer responded to his kicking. Police Officer Cooley initially stated that there was no issue placing § 87(2)(b) in the van and that no officer pushed him in the van. He later stated that he did not recall if § 87(2)(b) walked inot the van on his own or if an officer pushed him. He did not recall telling an officer to watch

§ 87(2)(b) s head or hearing another officer say this. He did not hear an officer say, “Fuck this faggot.”

Police Officer Reilly did not recall there being any issue placing § 87(2)(b) in the van. An officer did not push § 87(2)(b) into the van. He did not recall if he said or heard another officer say, “Watch his head.” He did not hear an officer say, “Fuck this faggot” or refer to § 87(2)(b) as a “faggot.”

§ 87(2)(g)
[Redacted]
[Redacted]
[Redacted].

§ 87(2)(g), § 87(4-b)
[Redacted]
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[Redacted]
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[Redacted].

Squad: 2

Investigator: _____
Signature Print Date

Squad Leader: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date